

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1631

Introduced by Senator Romero

February 24, 2006

An act to amend Section 6250 of the Government Code, and to amend Sections 832.7 and 832.8 of the Penal Code, relating to personnel records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1631, as amended, Romero. Personnel records.

Existing law generally regulates access to information relating to conduct of the people's business. Existing law also provides that peace officer or custodial officer personnel records are confidential, as specified. *Notwithstanding those provisions, existing law provides that a department or agency that employs peace or custodial officers may disseminate data regarding complaints against its officers in a form that does not identify the individuals involved.*

~~This bill would make technical, nonsubstantive changes to these provisions~~ *provide that if an agency or department conducts an investigation that reviews an officer's use of force, the agency or department shall release the factual findings and its conclusion, including the name of the officer involved. Because this bill would require local agencies and departments to perform additional duties, this bill would impose a state-mandated, local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6250 of the Government Code is
2 amended to read:

3 6250. In enacting this chapter, the Legislature, mindful of the
4 right of individuals to privacy, finds and declares that access to
5 information concerning conduct of the people's business is a
6 fundamental and necessary right of every person in this state.

7 SEC. 2. Section 832.7 of the Penal Code is amended to read:

8 832.7. (a) Peace officer or custodial officer personnel records
9 and records maintained by any state or local agency pursuant to
10 Section 832.5, or information obtained from these records, are
11 confidential and shall not be disclosed in any criminal or civil
12 proceeding except by discovery pursuant to Sections 1043 and
13 1046 of the Evidence Code. This section shall not apply to
14 investigations or proceedings concerning the conduct of peace
15 officers or custodial officers, or an agency or department that
16 employs those officers, conducted by a grand jury, a district
17 attorney's office, or the Attorney General's office.

18 (b) Notwithstanding subdivision (a), a department or agency
19 shall release to the complaining party a copy of his or her own
20 statements at the time the complaint is filed.

21 (c) Notwithstanding subdivision (a), a department or agency
22 that employs peace or custodial officers may disseminate data
23 regarding the number, type, or disposition of complaints
24 (sustained, not sustained, exonerated, or unfounded) made
25 against its officers if that information is in a form that does not
26 identify the individuals involved.

27 (d) *Notwithstanding subdivision (c), if an agency or a*
28 *department conducts an investigation that reviews a peace*
29 *officer's or a custodial officer's use of force, the reviewing*
30 *agency or department shall release the factual findings of the*

1 *investigation and the conclusion of the review, including the*
2 *name of the officer involved.*

3 ~~(d)~~

4 (e) Notwithstanding subdivision (a), a department or agency
5 that employs peace or custodial officers may release factual
6 information concerning a disciplinary investigation if the officer
7 who is the subject of the disciplinary investigation, or the
8 officer's agent or representative, publicly makes a statement he
9 or she knows to be false concerning the investigation or the
10 imposition of disciplinary action. Information may not be
11 disclosed by the peace or custodial officer's employer unless the
12 false statement was published by an established medium of
13 communication, such as television, radio, or a newspaper.
14 Disclosure of factual information by the employing agency
15 pursuant to this subdivision is limited to facts contained in the
16 officer's personnel file concerning the disciplinary investigation
17 or imposition of disciplinary action that specifically refute the
18 false statements made public by the peace or custodial officer or
19 his or her agent or representative.

20 ~~(e)~~

21 (f) (1) The department or agency shall provide written
22 notification to the complaining party of the disposition of the
23 complaint within 30 days of the disposition.

24 (2) The notification described in this subdivision shall not be
25 conclusive or binding or admissible as evidence in any separate
26 or subsequent action or proceeding brought before an arbitrator,
27 court, or judge of this state or the United States.

28 ~~(f)~~

29 (g) Nothing in this section shall affect the discovery or
30 disclosure of information contained in a peace or custodial
31 officer's personnel file pursuant to Section 1043 of the Evidence
32 Code.

33 SEC. 3. Section 832.8 of the Penal Code is amended to read:

34 832.8. As used in Section 832.7, "personnel records" means
35 any file maintained under an individual's name by his or her
36 employing agency and containing records relating to any of the
37 following:

38 (a) Personal data, including marital status, family members,
39 educational and employment history, home addresses, or similar
40 information.

1 (b) Medical history.

2 (c) Election of employee benefits.

3 (d) Employee advancement, appraisal, or discipline.

4 (e) Complaints, or investigations of complaints, concerning an
5 event or transaction in which he or she participated, or that he or
6 she perceived, and pertaining to the manner in which he or she
7 performed his or her duties.

8 (f) Any other information the disclosure of which would
9 constitute an unwarranted invasion of personal privacy.

10 *SEC. 4. If the Commission on State Mandates determines that*
11 *this act contains costs mandated by the state, reimbursement to*
12 *local agencies and school districts for those costs shall be made*
13 *pursuant to Part 7 (commencing with Section 17500) of Division*
14 *4 of Title 2 of the Government Code.*